

STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Sections 150 and 150.03 and  
Add Section 150.05  
Title 14, California Code of Regulations  
Re: Nearshore Fishery Restricted Access Program

I. Date of Initial Statement of Reasons: August 7, 2002

II. Date of Final Statement of Reasons: January 10, 2003

III. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: August 2, 2002  
Location: San Luis Obispo, CA

(b) Discussion Hearing Date: August 29, 2002  
Location: Oakland, CA

Date: October 25, 2002  
Location: Crescent City, CA

Date: December 6, 2002  
Location: Monterey, CA

(c) Adoption Hearing: Date: December 20, 2002  
Location: Sacramento, CA

IV. Update:

The Commission chose to adopt Option A, which allows an individual to initially qualify for only one regional Nearshore Fishery Permit (NFP), regardless of whether the individual meets the criteria for more than one region. The alternative would have allowed individuals to obtain a permit for each regional management area for which they qualify. This would allow for additional permits in this fishery which is still over the capacity goal in each region.

All references to three regional management areas were dropped because the Commission adopted four regional management areas for the nearshore fishery when the Commission adopted the Nearshore Fishery Management Plan (NFMP) and the implementing regulations. The Initial Statement of Reasons contained options for both three and four regional management areas so that there would be no delay in adopting the restricted access regulations which closely followed the NFMP regulations.

The Commission chose to adopt Options D3, D5, D9, and D14 as qualifying criteria for initial permit issuance. These options result in a 65 percent reduction in permits and a 35 percent reduction in the potential catch, reducing it to approximately twice the estimated allowable catch for each region. This is appropriate considering that the potential catch of the fleet is currently 3 to 4 times the allowable catch. Some of the alternate options would have allowed for more people to qualify but that would have increased the potential catch, requiring more restrictive catch limits. Other options would have allowed fewer individuals to qualify; however, these options were considered too disruptive to the fishery and markets that depend on it.

For 20-year California commercial fishermen to qualify for a permit, the Commission chose to adopt a minimum landings level for one year equal to 50 percent of the combined permittees' average annual landings for each region. Additionally, the Commission adopted a qualifying period from 1994 through 1999. Some alternatives had a lower landings requirement that would not require much participation to qualify. A higher landings requirement would have been too restrictive. An alternative to the qualifying period was to allow fishermen to qualify in any year that they were licensed. Since the nearshore fishery did not begin until the early 1990s, allowing an individual to qualify with landings prior to the establishment of the fishery would mean that the individual was not really participating in the nearshore fishery but another fishery and catching these species incidentally.

At the August 29, 2002 Commission meeting the Commission directed the Department to expand the options for qualifying criteria for gear endorsements. As a result several options within the noticed range were added to the proposed regulations, while some of the original options were changed

The Commission adopted Options J1, J7, J10, and J14 for qualifying for a trap gear endorsement. These options were chosen based on regional

trap regulations, the presence of a limited entry trap fishery in Southern California, and public input. Adopting less restrictive options might (a) create a trap fishery on the North Coast where none currently exists, (b) result in too many traps in the North-Central Coast (traps are only allowed in Mendocino County), and (c) result in too many traps in the South-Central Coast where the trap fishery is fully developed. Adopting more restrictive trap restrictions might cause hardships for those heavily invested in the fishery. In addition, further reduction in participation in the limited entry finfish trap fishery in southern California may not be necessary. Trawl gear endorsements were not adopted because this would reward focused fishing for California scorpionfish under Federal bycatch provisions in the halibut fishery. Additionally, these fish are landed live and could easily be released.

The Commission adopted Option L which provides for Nearshore Bycatch Permits for those fishermen using trawl or entangling nets and who have current NFPs. Trip limits were adopted for the South-Central and South Coast regions. The alternative was no bycatch permits. Adoption of the alternative would have been disruptive to those fishermen with NFPs who have traditionally caught nearshore species with trawl or entangling nets. The alternatives for trip limits would have allowed for bycatch in the North and North-Central Coast regions where traditionally no bycatch occurs. Increasing the trip limits in the South-Central or South Coast regions might encourage targeting of these high-value species.

The Commission adopted Option F which results in the immediate transferability of permits under a 2-for-1 permit transfer system. One alternative would have resulted in a two-year moratorium on the transfer of permits. This would slow the reduction in permits as new entrants would have to wait for permits to be transferable. Another alternative required a 3-for-1 permit transfer system. However, that would also slow the reduction in permits as it would become cost-prohibitive to purchase three permits given the low trip limits currently in place.

Based on testimony received at the public hearings, the Commission chose to set the fees for both transferable and non-transferable NFPs and permit transfers at \$500. Fees for gear endorsements and endorsement transfers were set at \$75. Fees for bycatch permits were set at \$200. Setting the fees at lower levels would result in less revenue to manage this program. Higher fees would be cost-prohibitive for participants given the low trip limits currently in place.

V. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting those considerations:

Responses to public comments received are included in the attached tables (Table 1. Public comment regarding restricted access provided during the NFMP regulatory process, and Table 2. Public comment regarding the proposed Nearshore Fishery Restricted Access Program regulatory process).

VI. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:  
California Fish and Game Commission  
1416 Ninth Street  
Sacramento, California 95814

VII. Location of Department files:

Department of Fish and Game  
1416 Ninth Street  
Sacramento, California 95814

VIII. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

The Department has presented a broad range of options for the Commission's consideration. An alternative was considered extending the qualifying time period back in time, which could increase the number of eligible participants. However, prior to 1994 the landing receipts were significantly different and few rockfish were landed as individual species. Most were landed in "group rockfish" categories (group red, group small). The advent of scannable landing receipts represents an increase in the accurate reporting of rockfish landings by species. This alternative was rejected because it would be difficult to determine historical participation using a time period that spans both the scannable and non-scannable landing receipt system.

An alternative was considered to develop qualifying criteria for the Central Coast Region as a whole; this yields about the same number of qualifying individuals. However, the vast majority of participants would be from the southern end of that region. Considering the territorial nature of some nearshore species (i.e., cabezon) it is better to spread effort out over the

region to avoid localized depletion of nearshore fishery resources. This alternative was rejected in favor of splitting the region when developing qualifying criteria in order to spread the fishing effort throughout the region.

(b) No change Alternative:

If a nearshore restricted access program is not adopted, the number of NFPs will slowly decrease as long as the moratorium on the issuance of new permits remains in place. However, the fishery is highly overcapitalized as evidenced by the need for time and area closures to extend the season throughout the year, as well as the early closures for cabezon, California sheephead and greenlings in 2001 and similar closures realized or projected for 2002. Based on average landings, the current nearshore permittees have the fishing potential to harvest three times the annual commercial allotment. Without additional regulations such as severe time and area closures and gear restrictions, the fishery would not be sustainable. However, these restrictions place economic hardships on the fishermen and threaten the economic viability of the fishery.

Additionally, the limited entry finfish trap fishery program is due to sunset on April 1, 2005 (Fish and Game Code Section 9001.6 (d)). If the nearshore restricted access program is not in place by the sunset date or that date is not changed, the use of finfish traps in southern California will be open to anyone with a general trap permit. This would create an impact to the resource such that it would not be sustainable.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

IX. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action may have a significant statewide adverse economic impact on businesses, including the ability of California business to compete with businesses in other states. Each permittee, buyer and processor is considered a small business. The proposed nearshore restricted access program would cause some fishermen who have participated in the past on a limited or sporadic level to lose some potential income. Based on year 2000 commercial fish landings, the proposed regulations could have a negative economic impact of \$562,963 to \$3,536,961 (expressed in year 2001 dollars) depending on the options chosen. These projections take into account the effect of the commercial landings as they move through the local economies, causing a ripple effect in output demand.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

The proposed action is expected to eliminate some jobs in commercial fishing.

- (c) Cost Impacts on a Representative Private Person or Business:

The proposed nearshore restricted access program would cause some fishermen who have participated in the past on a limited or sporadic level to lose some potential income.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

### Updated Informative Digest (Policy Statement Overview)

Current regulations establish a Nearshore Fishery Permit (NFP) for the take of the following nearshore fish species: cabezon, California scorpionfish, California sheephead, kelp and rock greenling, black-and-yellow rockfish, China rockfish, gopher rockfish, grass rockfish, and kelp rockfish; and a moratorium on the issuance of new permits. For the purpose of developing a restricted access program for this fishery control dates of December 31, 1999 for participation and October 20, 2000 for gear endorsements are also established.

The proposed regulatory changes would establish a restricted access program for the nearshore species listed above. The proposed restricted access program would be individual-based, with transferable and non-transferable permits. The allowable gears would be restricted to line gears unless the permittee qualifies for an endorsement of another gear type. Other proposed regulations would establish methods of transferability, initial application and renewal deadlines, an appeal process for the denial of a permit application, renewal or transfer, and fees for a permit and permit transfers. A permit for incidental take in other fisheries, as well as day or trip limits are also proposed.

**The options developed are based on the Nearshore Fishery Management Plan's (NFMP) four regions which include: the North Coast Region (California/Oregon border to Cape Mendocino), the North-Central Coast Region (Cape Mendocino to Año Nuevo), the South-Central Region (Año Nuevo to Point Conception), and the South Coast Region (Point Conception to the California/Mexico border).**

The options for a transferable permit in a regional management area require the possession of a 2002-2003 NFP and qualifying landings in that specific regional management area. The proposed qualifying landing period is January 1, 1994 through December 31, 1999. Options for additional qualifying criteria include number of years with a minimum level of landings (ranging from 100 to 1,000 pounds of nearshore landings in each of 1 to 3 years), the value of qualifying landings calculated as a minimum average price per pound (ranging from \$0.01 to \$3.50 per pound), recent participation in the fishery (at least one landing in either 2000 or 2001), and years of participation (ranging from 1 to 6 years with at least one nearshore landing).

The proposed non-transferable permit in a management area requires that the fisherman have been a licensed commercial fisherman in California for 20 years and have qualifying landings in that specific management area in either any one of those license years or one of the years between 1994 and 1999.

A range of capacity goals (the desired number of permits) is proposed for each management area for transferable permits. The non-transferable permits satisfy the

provisions of Fish and Game Code Section 8101 (grandfather clause) and contribute to attrition. **The capacity goal for each region is as follows:**

- **North Coast Region: 4-14 transferable permits**
- **North-Central Coast Region: 3-15 transferable permits**
- **South-Central Coast Region: 6-25 transferable permits**
- **South Coast Region: 5-45 transferable permits**

There are two proposed options for transferability. Under the moratorium option no permits could be transferred for the first two years of the program. If, after two years, the number of permits in any regional management area still exceeds the capacity goal, a permit transfer system would be utilized. A permit transfer system requires a person to purchase two or three permits, retiring all but one which the person receives. If the person wants to fish with trap or trawl gear, at least one of the permits purchased has to have the appropriate gear endorsement. When the number of permits drops below the capacity goal in any region, the individual with an active, non-transferable NFP and the greatest number of landings in the 6 year qualifying period would receive a permit and his non-transferable permit would be retired. When all non-transferable permits in a region are retired, permit transfers would be allowed to any qualified fisherman.

The proposed regulations would permit the estate of a deceased permittee to apply, via notarized letter within one year of the permittee's death, to keep the NFP only for the purpose of transferring the permit. The provisions of transferability as described above would apply to these transfers also. It is proposed that transfer of the permit to a partner or immediate family member would not require the purchase of multiple permits.

This program proposes limiting the allowable gear to hook-and-line gear. The use of traps or trawl gear would require a gear endorsement attached to the permit. Qualifying criteria for a trap endorsement include possession of a general trap permit or finfish trap permit and may include other criteria such as the majority of landings were made with trap gear or years with a minimum level of landings, the value of landings, recent participation in the fishery, and years of participation. Qualifying criteria for a trawl endorsement include that the majority of landings were made with trawl gear.

Regional NFPs are proposed to be renewed annually. For transferable NFPs the proposed range of fees is from \$125 to \$1200. The proposed fee for non-transferable NFPs is from \$125 to \$1200. Proposed transfer fees range from \$250 to \$1000. The proposed fee for a gear endorsement or transfer of a gear endorsement ranges from \$30 to \$75. The proposed fee for a Nearshore Fishery Bycatch Permit ranges from \$50 to \$250.

Under the proposed regulations, applications for initial issuance of a NFP must be received by the Department, or, if mailed, postmarked, on or before June 30, 2003.



Applications for initial issuance of a NFP received July 1 through July 31, 2003 shall be considered late and will be assessed a \$50 late fee. Applications received after July 31, 2003 will not be considered.

Under the proposed regulations, applications for renewal of a NFP must be received by the Department, or, if mailed, postmarked, on or before April 30 of each year. Applications for permit renewal of a NFP received May 1 through May 31 shall be considered late and will be assessed a \$50 late fee. Applications received after May 31 will not be considered, and the permit shall be cancelled and shall no longer be eligible for renewal in subsequent years.

The proposed NFP shall be revoked: a) if the person fails to renew the permit annually or renew his or her commercial fishing license issued pursuant to Fish and Game Code Section 7852; or b) for violation of any fish and game regulation pertaining to the take of nearshore species or violation of the terms or conditions of the permit.

The proposed regulations would provide that any applicant who is denied initial issuance, renewal, or transfer of a NFP or gear endorsement may appeal that denial to the Department in writing describing the basis for the appeal. If the Department denies the appeal, an appeal may be made to the Commission.

The regulations propose that at least one NFP holder shall be on board the vessel when taking, possessing or landing nearshore fish stocks. If a support vessel is used, one permit holder shall be on each vessel.

The proposed regulations would provide that no person may take or land nearshore fish stocks on board a boat without either a NFP or Nearshore Fishery Bycatch Permit. Eligibility for a Nearshore Fishery Bycatch Permit would require possession of a 2002-2003 NFP, and that the person is not eligible, based on the qualifying criteria, for a 2003-2004 NFP or is eligible but unwilling to convert to the allowable gear. It is proposed that only gear allowed under the Nearshore Fishery Bycatch Permit would be trawl or gill nets. Additionally, day or trip limits ranging from 1 to 100 pounds have been proposed.

**The following changes were made to the proposed regulatory language:**

- **All options for three regional management areas were removed. The Initial Statement of Reasons contained options for both three and four regional management areas based on the alternatives presented in the NFMP. This was necessary so as not to delay adoption of the restricted access regulations which were noticed before the NFMP implementing regulations were adopted. On October 25, 2002, the Commission adopted the NFMP. Along with adoption of this plan the Commission adopted implementing**

regulations that split management of this fishery into four regional management areas. Therefore, all references to three regional management were removed from the rulemaking.

- To clarify that only one person fishing aboard a boat needs a NFP, Subsection 150(a) was changed to simply state that a NFP is valid only for the management area stated on the permit and Subsection 150(b) was changed to describe the issuance of regional permits. This was necessary because Subsection 150(k) states that only one person aboard a boat is required to have a NFP.
- Option D9 was changed to read “...in each of [1 to 6] calendar years during the period 1994 to 1999, inclusive, and that sold for a minimum average ex-vessel price per pound of [\$0.01 - \$3.50]...”. This was done so that there was at least one option that reached the capacity goal in the South-Central Coast Region. This region was the only region that did not originally have an option that reached the capacity goal.
- Proposed changes to Section 150.01, Title 14, CCR, were dropped from the rulemaking. Originally, as part of the NFMP implementing regulations, Section 150.01, Title 14, was proposed to be modified to include that NFPs were revokable, that the fee for a NFP was \$125, and that an NFP was required by at least one person aboard a vessel taking, possessing or landing nearshore fish stocks listed in Section 150.01, Title 14. These modifications were also part of the changes to Section 150, Title 14 under this rulemaking. In fact, the changes in this rulemaking to Section 150 were more comprehensive, including a range of permit fees, conditions for revoking a permit, and that if more than one vessel was used, a NFP holder had to be on each vessel. As a result, the changes to Section 150.01 were removed from the implementing regulations for the NFMP prior to their adoption. Therefore, there was no need to make changes to Section 150.01 in this rulemaking.
- At the August 29, 2002 Commission meeting the Commission directed the Department to expand the options for qualifying criteria for gear endorsements. As a result several options within the noticed range were added to the proposed regulations, while some of the original options were changed. Most of these options were not adopted by the Commission and subsequently dropped from this rulemaking. The added or changed options that were adopted by the Commission include:

- **Addition of Option J7 to allow for qualifying for a trap gear endorsement in the North Coast Region if the permittee “(A) has a valid 2002-2003 general trap permit that has not been suspended or revoked, and (B) has landed at least [1 - 1,000] pounds of nearshore fish stocks...between January 1, 1994 and October 20, 2000, that were taken with trap gear.”**
- **Addition of Option J10 to allow for qualifying for a trap gear endorsement in the North-Central Coast Region if the permittee “(A) has a valid 2002-2003 general trap permit that has not been suspended or revoked, and (B) has landed at least [1 - 2,000] pounds of nearshore fish stocks...between January 1, 1994 and October 20, 2000, that were taken with trap gear.”**
- **Addition of Option J14 to allow for qualifying for a trap gear endorsement in the South-Central Coast Region if the permittee “(A) has a valid 2002-2003 general trap permit that has not been suspended or revoked, and (B) has landed at least [1 - 1,000] pounds of nearshore fish stocks...in each of [1 - 3] calendar years during the period January 1, 1994 through October 20, 2000 that were taken with trap gear.”**
- **Option J1 for the South Coast Region was not changed.**
- **Various subsections were renumbered for clarification.**
- **All options not adopted by the Commission were removed from the regulatory language.**

**The Commission adopted the following as part of the nearshore fishery restricted access program:**

- **Permittees will be allowed only one regional NFP. If a permittee qualifies for more than one regional management area, he/she will have to make a permanent decision to fish in one region.**
- **Qualifying criteria for initial permit issuance include: North Coast Region - at least one nearshore landing between 1994 and 1999 *AND* at least one nearshore landing in 2000 or 2001; North-Central Coast Region - a minimum of 500 pounds of nearshore landings in each of three years between 1994 and 1999 *AND* at least one nearshore landing in 2000 or 2001; South-Central Coast Region - a minimum of 500 pounds of nearshore**

landings in each of three years between 1994 and 1999 *AND* a minimum average price per pound of \$2.00 for nearshore landings *AND* at least one nearshore landing in 2000 or 2001; and South Coast Region - a minimum of 500 pounds of nearshore landings in each of three years between 1994 and 1999 *AND* a minimum average price per pound of \$2.00 for nearshore landings *AND* at least one nearshore landing in 2000 or 2001.

- Qualifying criteria for non-transferable permits for 20-year California commercial fishermen include: North Coast Region - a minimum of 200 nearshore pounds landed in any one year between 1994 and 1999; North-Central Coast Region - a minimum of 650 nearshore pounds landed in any one year between 1994 and 1999; South-Central Coast Region - a minimum of 1,050 nearshore pounds landed in any one year between 1994 and 1999; and South Coast Region - a minimum of 800 nearshore pounds landed in any one year between 1994 and 1999.
- The capacity goal is 14 permits in the North Coast Region; 9 permits in the North-Central Coast Region; 20 permits in the South-Central Coast Region; and 18 permits in the South Coast Region. The capacity goal for non-transferable permits is zero.
- Qualifying criteria for trap gear endorsements include: North and North-Central Coast Regions - a minimum of 1,000 pounds of nearshore trap landings between January 1, 1994 and October 20, 2000; South-Central Coast Region - either possession of a 2002-2003 finfish trap permit *OR* a minimum of 500 pounds of nearshore trap landings in each of three years between January 1, 1994 and October 20, 2000; and South Coast Region - possession of a 2002-2003 finfish trap permit.
- Qualifying criteria for a Nearshore Fishery Bycatch Permit include possession of a 2002-2003 NFP and qualifying landings made by the use of trawl or entangling nets.
- Bycatch trip limits were set at zero pounds in the North and North-Central Coast regions; 25 pounds per trip in South-Central Coast Region; and 50 pounds per trip in the South Coast Region.
- Immediate transferability of permits under a two-for-one permit transfer system.

- **Permit fees were set at \$500 for both transferable and non-transferable permits as well as permit transfers; \$75 for gear endorsements and gear endorsement transfers; and \$200 for a Nearshore Fishery Bycatch Permit.**

## Regulatory Language

### Section 150 Nearshore Fishery Permits, Title 14, CCR, is amended to read:

§150. Nearshore Fishery Permits Restricted Access Program.

~~(a) Notwithstanding Section 8587, Fish and Game Code, Nearshore Fishery Permits shall be issued only to persons who have previously held a valid 2000-2001 Nearshore Fishery Permit, and have made landings that cumulatively total 100 pounds of any of the nine nearshore species for which a Nearshore Fishery Permit is required as defined in Section 150.01, between January 1, 1994 and December 31, 2000 as documented by department landing receipts in their name and commercial fishing license number.~~

~~(b) Renewal. On and after April 1, 2001, applications for renewal of Nearshore Fishery Permits must be received by the department or must be postmarked no later than June 30 of each permit year. Each application must be accompanied by evidence that the qualification requirements specified in subsection (a) above have been met. Applications postmarked or presented after June 30 and before August 1 will be assessed a \$50 late fee. Applications postmarked or presented after July 31 will not be considered.~~

~~(1) Any applicant who is denied renewal of a Nearshore Fishery Permit may appeal the denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than September 30 following the permit year in which the applicant last held a valid Nearshore Fishery Permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision.~~

~~(c) Restricted Access. A control date of December 31, 1999 is established for the purpose of developing a limited restricted access nearshore fishery. Only persons possessing a valid Nearshore Fishery Permit as of December 31, 1999 will be considered for inclusion in a future the restricted access nearshore fishery.~~

(a) Nearshore Fishery Permits issued pursuant to Fish and Game Code Section 8587, are valid only in the regional management area specified in the permit.

(b) The department shall issue a Nearshore Fishery Permit for a regional management area described in Section 52.04, Title 14, CCR to each nearshore fishery permittee who meets the regional qualifying criteria below. A person will receive only one Nearshore Fishery Permit for use in only one regional management area. A person meeting the qualifications for more than one regional management area must make a permanent, irrevocable decision prior to obtaining a Nearshore Fishery Permit for the 2003-2004 permit year to fish in one regional management area. The permit shall not be changed to another regional management area under any circumstances.

(c) Nearshore Fish Stocks Used for Landings Qualification. The following names or market categories and their associated codes as recorded on department fish landing receipts pursuant to Fish and Game Code Section 8043 will be used to determine eligibility: black-and-yellow rockfish (251), cabezon (261), California scorpionfish (260),

California sheephead (145), China rockfish (258), gopher rockfish (263), grass rockfish (652), greenlings of the genus *Hexagrammos* (290), kelp rockfish (659), group nearshore rockfish (973) and group gopher rockfish (962).

(d) Initial Permit Issuance.

(1) North Coast Region. The person has a valid 2002-2003 Nearshore Fishery Permit that has not been suspended or revoked, and has landed nearshore fish stocks as described in Section 150.01, Title 14, CCR, from January 1, 1994 to December 31, 1999, as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, and satisfies the landings and participation requirements below:

(A) has made at least one landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in either the 2000 or 2001 calendar year.

(B) landings of nearshore fish stocks used to qualify must have been made at ports located within the North Coast Region as defined in Section 52.04, Title 14, CCR.

(C) Nearshore Fishery Permits issued pursuant to subsection (d)(1) are designated North Coast Region Nearshore Fishery Permits, are transferable, and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the North Coast Region only.

(2) North-Central Coast Region. The person has landed nearshore fish stocks as described in Section 150.01, Title 14, CCR, from January 1, 1994 to December 31, 1999, as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, and has a valid 2002-2003 Nearshore Fishery Permit that has not been suspended or revoked, and satisfies the landing and participation requirements below:

(A) has landed at least 500 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in each of 3 calendar years during the period 1994 to 1999, inclusive.

(B) has made at least one landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in either the 2000 or 2001 calendar year.

(C) landings of nearshore fish stocks used to qualify must have been made at ports located within the North-Central Coast Region as defined in Section 52.04, Title 14, CCR.

(D) Nearshore Fishery Permits issued pursuant to subsection (d)(2) are designated North-Central Coast Region Nearshore Fishery Permits, are transferable, and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the North-Central Coast Region only.

(3) South-Central Coast Region. The person has landed nearshore fish stocks as described in Section 150.01, Title 14, CCR, from January 1, 1994 to December 31, 1999, as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, and has a valid 2002-03 Nearshore Fishery Permit that has not been suspended or revoked, and satisfies the landing and participation requirements below:

(A) has landed at least 500 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in each of 3 calendar years during the period 1994 to 1999, inclusive, and which sold for a minimum average ex-vessel price per pound of \$2.00 for landings of nearshore fish stocks landed during the most current three calendar years with landings of nearshore fish stocks during the period 1994 to 1999, inclusive.

(B) has made at least one landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in either the 2000 or 2001 calendar year.

(C) landings of nearshore fish stocks used to qualify must have been made at ports located within the South-Central Coast Region.

(D) Nearshore Fishery Permits issued pursuant to subsection (d)(3) are designated South-Central Coast Region Nearshore Fishery Permits, are transferable, and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the South-Central Coast Region only.

(4) South Coast Region. The person has landed nearshore fish stocks as described in Section 150.01, Title 14, CCR, from January 1, 1994 to December 31, 1999, as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, and has a valid 2002-2003 Nearshore Fishery Permit that has not been suspended or revoked, and satisfies the landing and participation requirements below:

(A) has landed at least 500 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in each of 3 calendar years during the period 1994 to 1999, inclusive, and which sold for a minimum average ex-vessel price per pound of \$2.00 for landings of nearshore fish stocks landed during the most current three calendar years with landings of nearshore fish stocks during the period 1994 to 1999, inclusive.

(B) has made at least one landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in either the 2000 or 2001 calendar year.

(C) landings of nearshore fish stocks used to qualify must have been made at ports located within the South Coast Region as defined in Section 52.04, Title 14, CCR.

(D) Nearshore Fishery Permits issued pursuant to subsection (d)(4) are designated South Coast Region Nearshore Fishery Permits, are transferable, and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the South Coast Region only.

(e) Initial Qualification for 20-year California Commercial Fishermen. During the initial year of the nearshore restricted access program, any person who has been licensed as a California commercial fisherman for at least 20 years at the time of application, and who does not qualify for a permit in (d)(1), (2), (3), or (4) above, and who has participated in the commercial nearshore fishery for at least one of those years as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, upon application shall be issued a Non-Transferable Nearshore Fishery Permit for one



regional management area, based on the following minimum landing requirements in subsection (e)(1), (2), (3), or (4) below:

(1) landed at least 200 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in any one calendar year between January 1, 1994 and December 31, 1999.

(A) landings used to qualify must have been made at ports located within the North Coast Region as defined in Section 52.04, Title 14, CCR.

(B) Nearshore Fishery Permits issued pursuant to subsection (e)(1) are designated Non-Transferable North Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the North Coast Region only.

(2) landed at least 650 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in any one calendar year between January 1, 1994 and December 31, 1999.

(A) landings used to qualify must have been made at ports located within the North-Central Coast Region as defined in Section 52.04, Title 14, CCR.

(B) Nearshore Fishery Permits issued pursuant to subsection (e)(2) are designated Non-Transferable North-Central Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the North-Central Coast Region only.

(3) landed at least 1,050 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in any one calendar year between January 1, 1994 and December 31, 1999.

(A) landings used to qualify must have been made at ports located within the South-Central Coast Region as defined in Section 52.04, Title 14, CCR.

(B) Nearshore Fishery Permits issued pursuant to subsection (e)(3) are designated Non-Transferable South-Central Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the South-Central Coast Region only.

(4) landed at least 800 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in any one calendar year between January 1, 1994 and December 31, 1999.

(A) landings used to qualify must have been made at ports located within the South Coast Region as defined in Section 52.04, Title 14, CCR.

(B) Nearshore Fishery Permits issued pursuant to subsection (e)(4) are designated Non-Transferable South Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the South Coast Region only.

(f) Capacity Goal. The capacity goal for each nearshore regional management area is as follows: 14 North Coast Region Nearshore Fishery Permits, 9 North-Central Coast Region Nearshore Fishery Permits, 20 South-Central Coast Region Nearshore Fishery Permits, and 18 South Coast Region Nearshore Fishery Permits. The capacity goal for Non-Transferable Nearshore Fishery Permits is zero.

(g) Permit Transfers.

(1) If the number of Nearshore Fishery permits in a regional management area is greater than the capacity goal for that regional management area on April 1, 2003, the following provisions for permit transfers are in effect:

(A) A Nearshore Fishery Permit issued pursuant to this section may be voluntarily transferred by the permittee, if the transferee (person to whom the permit is to be issued) has never been convicted of a violation of any provision of these regulations or of the Fish and Game Code pertaining to the commercial take of nearshore fish stocks as described in Section 150.01, Title 14, CCR. Until the number of permits in a regional management area equals or falls below the capacity goal for that regional management area, a permit may only be transferred if one additional transferable permit for the same regional management area is surrendered to the department for cancellation at the same time the application for the transfer is submitted to the department.

(B) A Nearshore Fishery Permit may be transferred pursuant to this section to a person only if that person holds a commercial fishing license issued pursuant to Fish and Game Code Section 7850 and submits to the department a notarized letter from each of the permittees described in subdivision (A), that each include a statement identifying the person to whom the Nearshore Fishery Permit is to be transferred and setting forth the conditions of the transfer.

(C) Application for transfer of a Nearshore Fishery Permit, in the form of a notarized letter, shall be submitted to the department by the transferee.

(D) Upon determining that the transferee of the Nearshore Fishery Permit is qualified to receive a Nearshore Fishery Permit and upon payment of all permit and transfer fees, the department shall issue a Nearshore Fishery Permit for that regional management area to the transferee that is valid for the remainder of the then current fishing season. At the time the permit transfer is complete the additional transferable Nearshore Fishery Permit is required to be surrendered by the transferee pursuant to subsection (g)(1)(A). If the transferee holds a Non-Transferable Nearshore Fishery Permit, that permit shall be cancelled.

(E) After the transfer of a person's Nearshore Fishery Permit, the former permit holder may not take, possess, transfer, or sell any nearshore fish stocks as described in Section 150.01, Title 14, CCR, for commercial purposes unless otherwise permitted by law.

(2) Should the number of Nearshore Fishery Permits in a regional management area fall below the capacity goal, the following provisions would be in effect:

(A) Transferable Nearshore Fishery Permits for a nearshore regional management area will be made available to those persons with a valid Non-transferable Nearshore Fishery Permit for that regional management area as described in Section 52.04, Title 14, CCR, who landed nearshore fish stocks as described in Section 150.01, Title 14, CCR, in that regional management area during the prior calendar year, and who landed the highest total pounds of nearshore fish stocks at ports within that regional management area during the six-year period January 1, 1994

through December 31, 1999 as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046. Permits will be issued in order to those persons who landed the highest total number of pounds of nearshore fish.

(B) When only Transferable Nearshore Fishery Permits remain in a regional management area, transfer of Nearshore Fishery Permits in that region will be on a one-to-one basis.

(3) A transferable Nearshore Fishery Permit issued pursuant to this section may be transferred to the estate of a permittee who has died only for the purpose of transferring the Nearshore Fishery Permit to another person.

(A) Such transfer may be considered if the estate makes application, in the form of a notarized letter, for the transfer within one year of the date of death as listed on the death certificate.

(B) The estate is responsible for any permit renewal fees under subsection (n) of this Section or Section 150.03, Title 14, CCR.

(4) The Nearshore Fishery Permit in the estate of a deceased permittee may be transferred to any person who meets all of the following qualifications:

(A) The person, at that time, holds a commercial fishing license issued pursuant to Fish and Game Code Section 7850.

(B) The person has never been convicted of a violation of any provision of these regulations or of the Fish and Game Code pertaining to the commercial take of nearshore fish stocks.

(C) The transfer of the permit is subject to subsection (g)(1) and (2) above.

(5) A Nearshore Fishery Permit in the estate of a deceased permittee that is transferred to an immediate family member (spouse, child, grandchild, parent, or sibling) or to a partner as described in Fish and Game Code Section 8102 is exempt from the requirements in subsection (g)(1) and (2) above.

(h) Application Deadline for Initial Issuance of Nearshore Fishery Permit. All applications (FG 1326(1/03)) and permit fees for initial issuance of Nearshore Fishery Permits under the restricted access program must be received by the department, or, if mailed, be postmarked on or before June 30, 2003. Applications and permit fees for initial issuance of Nearshore Fishery Permits under the restricted access program received by the department, or, if mailed, postmarked from July 1 through July 31, 2003 will be assessed a \$50 late fee. Applications and permit fees for the initial issuance of Nearshore Fishery Permits under the restricted access program postmarked or received after July 31, 2003 shall be returned to the applicant unissued.

(i) Nearshore Fishery Permit Renewal Requirements. Notwithstanding Fish and Game Code Section 8587, after April 1, 2004, Nearshore Fishery Permits for a regional management area will be issued annually by the department only to those persons who have held a valid Nearshore Fishery Permit for that regional management area in the immediately preceding permit year.

(j) Application Deadline for Nearshore Fishery Permit Renewal. All applications (FG 1326(1/03)) and permit fees for renewal of Nearshore Fishery Permits must be received

by the department, or, if mailed, postmarked on or before April 30 of each permit year. Applications and permit fees for renewal of Nearshore Fishery Permits received by the department, or, if mailed, postmarked from May 1 through May 31 will be assessed a \$50 late fee. Applications and permit fees postmarked or presented after May 31 will not be considered and the Nearshore Fishery Permit applied for shall be cancelled and not available for renewal in subsequent years.

(k) Presence of Permit Holder on Vessel. At least one Nearshore Fishery Permit holder shall be on board at all times when taking, possessing aboard a boat, or landing nearshore fish stocks as described in Section 150.01, Title 14, CCR. If a support vessel is used, a permit holder shall be on each vessel when taking nearshore fish stocks.

(l) Gear Authorized for Use. Only hook-and-line gear consistent with restrictions of Section 150.17, Title 14, CCR, and gear authorized for use under a gear endorsement issued pursuant to Section 150.03, Title 14, CCR, shall be used to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR.

(m) Appeals.

(1) Any applicant who is denied initial issuance of a Nearshore Fishery Permit for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, no later than March 31, 2004. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(2) Any applicant who is denied renewal of a Nearshore Fishery Permit for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, not later than March 31 following the permit year in which the applicant last held a valid Nearshore Fishery Permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(3) Any applicant who is denied transfer of a Nearshore Fishery Permit may appeal to the department in writing describing the basis for the appeal. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(n) Fees. Notwithstanding Fish and Game Code Section 8587, the fees for a Nearshore Fishery Permit under the restricted access program shall be as follows:

(1) The department shall charge an annual fee for each transferable Nearshore Fishery Permit of five hundred dollars (\$500).

(2) The department shall charge an annual fee for each Non-Transferable Nearshore Fishery Permit of five hundred dollars (\$500).

(3) The department shall charge a non-refundable fee of five hundred dollars (\$500) for each permit transfer. If more than one permit is required for the transfer, a total of five hundred (\$500) shall be charged.

(o) Revocation of Permits. Any permit may be suspended, revoked, or cancelled by the commission upon conviction of a violation of any provision of these regulations or Fish and Game Code pertaining to the commercial take of nearshore fish stocks as described in Section 150.01, Title 14, CCR, or violation of the terms or conditions of the permit by the holder thereof, his agents, servants, employees or those acting under his direction and control.

NOTE:

Authority cited: Sections 1050 and 8587.1, Fish and Game Code. Reference: Sections 1050, 7850, 8043, 8046, 8102, 8587 and, 8587.1, 8588, 8589,5 and 8589,7, Fish and Game Code.

**Section 150.03, Nearshore Fishery Control Date for Gear Endorsement program, Title 14, CCR, is amended to read:**

~~§150.03. Nearshore Fishery Control Date for Gear Endorsement Program.~~

~~(a) A control date of October 20, 2000 is established for the purpose of developing and implementing a gear endorsement program for the nearshore fishery.~~

~~(b) In addition to any other requirements the Commission may adopt, only persons who meet the following conditions will be considered for inclusion in a future nearshore fishery gear endorsement program:~~

~~(1) Possession of a valid Nearshore Fishery Permit issued pursuant to Fish and Game Code Section 8587, any other applicable permit or permits required to take and land nearshore fishes, and meeting the renewal requirements of Section 150, Title 14, CCR, and~~

~~(2) Proof of having made at least one landing of nearshore fish in their own name on or before the control date using a specified gear type (traps and/or hook and line and/or nets) as documented by a fish landing receipt prepared pursuant to Fish and Game Code Section 8043 and submitted to the department pursuant to Fish and Game Code Section 8046.~~

(a) The following regulations govern the qualification, issuance and appeals process of a gear endorsement program for the commercial take of nearshore fish stocks.

(e) (b) Nearshore fish stocks are those listed in Section 151.01 150.01, Title 14, CCR.

(c) Qualifications for Gear Endorsement. A gear endorsement shall be issued upon application only to a person who has a valid 2003-2004 transferable Nearshore Fishery Permit, issued pursuant to Section 150, Title 14, CCR, for a specific regional management area as defined in Section 52.04, Title 14, CCR, based on the following qualifying criteria:

(1) North Coast Region Trap Endorsement. A trap endorsement allows the permittee to use trap gear when taking nearshore fish stocks as described in Section 150.01, Title 14, CCR, in addition to gear authorized under Section 150(l), Title 14, CCR. A trap endorsement shall be attached to the North Coast Region Nearshore Fishery Permit issued to a person who has satisfied the following requirements:

(A) has a valid 2002-2003 general trap permit that has not been suspended or revoked, and

(B) has landed at least 1,000 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, between January 1, 1994 and October 20, 2000 that were taken with trap gear.

(C) landings of nearshore fish stocks as described in Section 150.01, Title 14, CCR, used to qualify must have been made at ports located within the North Coast Region as defined in Section 52.04, Title 14, CCR, as documented by department landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046.

(2) North-Central Coast Region Trap Endorsement. A trap endorsement allows the permittee to use trap gear when taking nearshore fish stocks as described in

Section 150.01, Title 14, CCR, in addition to gear authorized under Section 150(l), Title 14, CCR. A trap endorsement shall be attached to the North-Central Coast Region Nearshore Fishery Permit issued to a person who has satisfied the following requirements:

(A) has a valid 2002-2003 general trap permit that has not been suspended or revoked, and

(B) has landed at least 1,000 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, between January 1, 1994 and October 20, 2000 that were taken with trap gear.

(C) landings of nearshore fish stocks as described in Section 150.01, Title 14, CCR, used to qualify must have been made at ports located within the North-Central Coast Region as defined in Section 52.04, Title 14, CCR, as documented by department landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046.

(3) South-Central Coast Region Trap Endorsement. A trap endorsement allows the permittee to use trap gear when taking nearshore fish stocks as described in Section 150.01, Title 14, CCR, in addition to gear authorized under Section 150(l), Title 14, CCR. A trap endorsement shall be attached to the South-Central Coast Region Nearshore Fishery Permit issued to a person who has satisfied the requirements of either (A), or (B) and (C) below:

(A) has a valid 2002-2003 finfish trap permit that has not be suspended or revoked, or

(B) has a valid 2002-2003 general trap permit that has not been suspended or revoked, and has landed at least 500 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in each of 3 calendar years during the period January 1, 1994 through October 20, 2000 that were taken with trap gear.

(C) landings of nearshore fish stocks as described in Section 150.01, Title 14, CCR, used to qualify must have been made at ports located within the South-Central Coast Region as defined in Section 52.04, Title 14, CCR, as documented by department landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046.

(4) South Coast Region Trap Endorsement. A trap endorsement allows the permittee to use trap gear when taking nearshore fish stocks as described in Section 150.01, Title 14, CCR, in addition to gear authorized under Section 150(l), Title 14, CCR. A trap endorsement shall be attached to the South Coast Region Nearshore Fishery Permit issued to a person who has a valid 2002-2003 finfish trap permit that has not been suspended or revoked.

(d) Transfer of Nearshore Fishery Permit Gear Endorsements. The transfer of a Nearshore Fishery Permit gear endorsement is subject to the provisions of Section 150(g), Title 14, CCR. Only one Nearshore Fishery Permit gear endorsement is required to transfer the gear endorsement to a new permittee.

(e) Application Deadline for Initial Issuance of Nearshore Fishery Permit Gear Endorsements. All applications (FG 1327(1/03)) and permit fees for initial issuance of

Nearshore Fishery Permit gear endorsements under the restricted access program must be received by the department, or, if mailed, be postmarked on or before June 30, 2003. Applications and permit fees for initial issuance of Nearshore Fishery Permit gear endorsements under the restricted access program received by the department, or, if mailed, postmarked from July 1 through July 31, 2003 will be assessed a \$50 late fee. Applications and permit fees for the initial issuance of Nearshore Fishery Permit gear endorsements under the restricted access program postmarked or received after July 31, 2003 shall be returned to the applicant unissued.

(f) Nearshore Fishery Permit Gear Endorsement Renewal Requirements. After April 1, 2004, notwithstanding Fish and Game Code Section 8587, Nearshore Fishery Permit gear endorsements for a regional management area will be renewed annually by the department only to a person who has held a valid Nearshore Fishery Permit gear endorsement for that regional management area in the immediately preceding permit year.

(g) Application Deadline for Nearshore Fishery Permit Gear Endorsement Renewal. All applications (FG 1327(1/03)) and permit fees for renewal of Nearshore Fishery Permit gear endorsements must be received by the department, or, if mailed, postmarked on or before April 30 of each permit year. Applications and permit fees for renewal of Nearshore Fishery Permit gear endorsements received by the department, or, if mailed, postmarked from May 1 through May 31 will be assessed a \$50 late fee. Applications and permit fees for Nearshore Fishery Permit gear endorsements postmarked or presented after May 31 will not be considered and the Nearshore Fishery Permit gear endorsement applied for shall be cancelled and not available for renewal in subsequent years.

(h) Appeals.

(1) Any applicant who is denied initial issuance of a Nearshore Fishery Permit gear endorsement for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, no later than March 31, 2004. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(2) Any applicant who is denied renewal of a Nearshore Fishery Permit gear endorsement for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, not later than March 31 following the permit year in which the applicant last held a valid Nearshore Fishery Permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(3) Any applicant who is denied transfer of a Nearshore Fishery Permit gear endorsement may appeal to the department in writing describing the basis for the appeal. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.



(i) Fees. Notwithstanding Fish and Game Code Section 8587, the fees for a Nearshore Fishery Permit gear endorsement under the restricted access program shall be as follows:

(1) The department shall charge an annual fee for each Nearshore Fishery Permit gear endorsement of seventy-five dollars (\$75).

(2) the department shall charge a non-refundable fee of seventy-five dollars (\$75) for each gear endorsement transfer.

(j) Revocation of Nearshore Fishery Permit Gear Endorsement. Any Nearshore Fishery Permit gear endorsement may be suspended, revoked, or cancelled by the commission upon conviction of a violation of any provision of these regulations or Fish and Game Code pertaining to the commercial take of nearshore fish stocks as described in Section 150.01, Title 14, CCR, or violation of the terms or conditions of the permit by the holder thereof, his agents, servants, employees or those acting under his direction and control.

NOTE:

Authority cited: Sections 1050 and 8587.1, Fish and Game Code. Reference: Sections 1050, ~~8043~~, 8046 ~~8586 and 8587~~, 8589.5, and 8589.7, Fish and Game Code.

## **Add Section 150.05 Nearshore Fishery Bycatch Permit, to Title 14, CCR:**

Section 150.05. Nearshore Fishery Bycatch Permit Program.

(a) A Nearshore Fishery Bycatch Permit authorizing the take, possession aboard a vessel, or landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, and in the manner and amount described in subsections (b) and (d) below may be issued to a person who meets the following conditions:

(1) has a valid 2002-2003 Nearshore Fishery Permit that has not been suspended or revoked.

(2) The person is not eligible for a 2003-2004 Nearshore Fishery Permit, or the person is eligible for a 2003-2004 Nearshore Fishery Permit based on landings made with gear not authorized under Section 150 or 150.03, Title 14, CCR, and chooses not to convert to the gear authorized pursuant to Section 150, 150.03 or 150.17, Title 14, CCR.

(b) Gear Authorized for Use. Only trawl or entangling nets shall be used to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, under a Nearshore Fishery Bycatch Permit issued pursuant to this section.

(c) Nearshore Fishery Bycatch Permits are non-transferable.

(d) Trip Limits. Notwithstanding, Section 120.3, Title 14, CCR, and Fish and Game Code Section 8496, a person holding a Nearshore Fishery Bycatch Permit may take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, under the following trip limits:

(1) North Coast Region. Zero (0) pounds of nearshore fish stocks may be taken per trip.

(2) North-Central Coast Region. Zero (0) pounds of nearshore fish stocks may be taken per trip.

(3) South-Central Coast Region. Twenty-five (25) pounds of nearshore fish stocks may be taken per trip.

(4) South Coast Region. Fifty (50) pounds of nearshore fish stocks may be taken per trip.

(e) Application Deadline for Initial Issuance of Nearshore Fishery Bycatch Permits. All applications (FG 1328(1/03)) and permit fees for initial issuance of Nearshore Fishery Bycatch Permits must be received by the department, or, if mailed, be postmarked on or before June 30, 2003. Applications and permit fees for initial issuance of Nearshore Fishery Bycatch Permits under the restricted access program received by the department, or, if mailed, postmarked from July 1 through July 31, 2003 will be assessed a \$50 late fee. Applications and permit fees for the initial issuance of Nearshore Fishery Bycatch Permits under the restricted access program postmarked or received after July 31, 2003 shall be returned to the applicant unissued.

(f) Nearshore Fishery Bycatch Permit Renewal Requirements. Notwithstanding Fish and Game Code Section 8587, after April 1, 2004, Nearshore Fishery Bycatch Permits

will be renewed annually by the department only to a person who has held a valid Nearshore Fishery Bycatch Permit in the immediately preceding permit year.

(g) Application Deadline for Nearshore Fishery Bycatch Permit Renewal. All applications (FG 1328(1/03)) and permit fees for renewal of Nearshore Fishery Bycatch Permits must be received by the department, or, if mailed, postmarked on or before April 30 of each permit year. Applications and permit fees for renewal of Nearshore Fishery Bycatch Permits received by the department, or, if mailed, postmarked from May 1 through May 31 will be assessed a \$50 late fee. Applications and permit fees postmarked or presented after May 31 will not be considered and the Nearshore Fishery Bycatch Permit applied for shall be cancelled and not available for renewal in subsequent years.

(h) Appeals.

(1) Any applicant who is denied initial issuance of a Nearshore Fishery Bycatch Permit for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, no later than March 31, 2004. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(2) Any applicant who is denied renewal of a Nearshore Fishery Bycatch Permit for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, not later than March 31 following the permit year in which the applicant last held a valid Nearshore Fishery Permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(i) Fees. The department shall charge an annual fee for each Nearshore Fishery Bycatch Permit of two hundred dollars (\$200).

(j) Revocation of Nearshore Fishery Bycatch Permit. Any permit may be suspended, revoked, or cancelled by the commission upon conviction of a violation of any provision of these regulations or Fish and Game Code pertaining to the commercial take of nearshore fish stocks as described in Section 150.01, Title 14, CCR, or violation of the terms or conditions of the permit by the holder thereof, his agents, servants, employees or those acting under his direction and control.

NOTE:

Authority cited: Sections 1050 and 8587.1, Fish and Game Code. Reference: Sections 1050, 7850, 8496, 8587, and 8587.1, Fish and Game Code.